

Notice of Allowability

Application No.

10/069,609

Applicant(s)

BIEGERT ET AL.

Examiner

Art Unit

Julian Mercado

1745

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☒ This communication is responsive to 9-28-05.
2. ☒ The allowed claim(s) is/are 11-16.
3. ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some* c) ☐ None of the:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☒ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

* Certified copies not received: _____.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.

THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.

4. ☐ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
5. ☐ CORRECTED DRAWINGS (as "replacement sheets") must be submitted.
- (a) ☐ including changes required by the Notice of Draftsperson's Patent Drawing Review (PTO-948) attached
- 1) ☐ hereto or 2) ☐ to Paper No./Mail Date _____.
- (b) ☐ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date _____.
- Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).
6. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

Attachment(s)

- ☒ Notice of References Cited (PTO-892)
- ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- ☐ Information Disclosure Statements (PTO-1449 or PTO/SB/08), Paper No./Mail Date _____
- ☐ Examiner's Comment Regarding Requirement for Deposit of Biological Material
- ☐ Notice of Informal Patent Application (PTO-152)
- ☐ Interview Summary (PTO-413), Paper No./Mail Date _____
- ☐ Examiner's Amendment/Comment
- ☒ Examiner's Statement of Reasons for Allowance
- ☐ Other _____

DETAILED ACTION

Remarks

This Office action is responsive to applicant's response under 37 CFR 1.116.

Claim Rejections - 35 USC § 103

The rejection of claims 11-16 are rejected under 35 U.S.C. 103(a) as being unpatentable over Mushiake (U.S. Pat. 6,242,135 B1) has been withdrawn.

The examiner acquiesces with applicant's assertion that the ion-conducting polymer in Mushiake is not from an inherent ion-conducting property of the polymer itself, but instead imparted from the polymer electrolyte that is filled into the polymer. Indeed, the examiner acquiesces with the assertion that the ePTFE polymer in Mushiake is not ion-conducting. In contrast, an ion-conducting polymer such as Nafion is employed by the claimed invention. Applicant's assertion that employing an ion-conducting polymer in Mushiake would be superfluous to the ion-conducting property from the added electrolyte is also noted. Thus, the prior art does not teach or suggest the claimed invention regarding an ion-conducting polymer with a metal-containing alkoxide gel located within or bonded therewith. By ion-conducting polymer this feature is understood as an intrinsic property of the polymer independent of additional ion-conducting additives.

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. U.S. Pat. 5,433,876 to Fauteax et al. is cited to teach an ion-conductive polymer with

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its ion-conductive property provided for by an electrolytic salt in solution. See col. 1 line 33-37 and line 45-48, col. 3 line 8-18 and line 36-37 and col. 5 line 36-44.

Allowable Subject Matter

In view of the foregoing remarks, claims 11-16 are allowed.

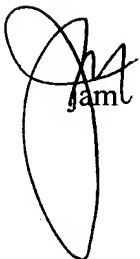
Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Julian Mercado whose telephone number is (571) 272-1289.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Patrick J. Ryan, can be reached on (571) 272-1292. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-0661.

A handwritten signature in black ink, appearing to read 'J. Mercado' or similar, with a large loop at the bottom.

PATRICK JOSEPH RYAN
SUPERVISORY PATENT EXAMINER